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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/700,150	02/05/2001	Fumio Nagumo	450108-02376	2773

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EXAMINER	
LONSBERRY, HUNTER B	
ART UNIT	PAPER NUMBER
2623	
MAIL DATE	DELIVERY MODE
11/28/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/700,150	NAGUMO, FUMIO	
	Examiner	Art Unit	
	Hunter B. Lonsberry	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *31 July 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *17-20,22-27,29 and 30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *17-20,22-27,29 and 30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 7/31/07 have been fully considered but they are not persuasive.

Applicant argues that Zigmond's teachings of a 1/0 fee for showing/not displaying advertisements is not equivalent to a variable fee based on a percentage of the screen shown by advertisements. (pages 9-10).

The Examiner disagrees and notes that at applicant appears the current claim language to offer a variable fee for any percentage value selected by a user. An option of 0 and an option of 100% is an option selectable by the user, and as correctly noted by applicant, Zigmond does state that programming costs would increase if a user refrained from displaying ads. If applicant desires claim language where the user can select a ratio other than 0/1%, for example 1-99%, and the costs are variable upon that numerical value, other than a binary 0/1 (or 0% and whatever % the displayed ads take up) the Examiner suggests applicant amend the claims.

Applicant argues that Zigmond does not teach transmitting the control data to a source company which transmits the program information and commercial information and determines a subscription fee in accordance with the selectable percentage option set by the viewer. Further that there is no suggestion that the information relating to a

viewer's response should be information relating to the selected percentage of commercial information chose by the viewer. (page 10).

The Examiner respectfully disagrees. As Zigmond recites that a user who elects not to display advertisements has a higher subscription fee, reporting takes place. See the previous discussion above.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 17-20, 22-27 and 29-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Zigmond et al (USPN 6,698,020).

Regarding claims 17 and 24, Zigmond discloses an information receiving device and method for receiving separately transmitted program information and commercial information with the program (see fig 4 and fig 5). It is noted that the commercial delivery and program delivery are separate but from the same source i.e. the advertisement content provider is the same as the video programming content provider (see col. 8, lines 17 - 20). Zigmond further discloses transmitting and receiving

commercial information and program information over a satellite communication channel or 'first channel'. Zigmond further discloses "In one implementation, ad source 62 transmits advertisement streams 64 only periodically over satellite 134, in which case, a device such as advertisement repository 86 of FIG. 5 may be used to store the transmitted advertisements for later selection and display" (see col. 17, line 50 - col. 18 line 13). Thus, Zigmond discloses receiving the commercial information before the program information.

Zigmond further teaches a user can set the rules for displaying a commercial (col. 11, lines 50-54) and thus discloses the claimed 'condition setting means for a viewer to set display conditions for the commercial information'.

It is further noted that the set of rules are inherently formed by control means for forming control data as necessary for controlling commercial insertion (see col. 11, lines 50-54).

Zigmond further discloses a video switch 68 located in ad insertion device 60 (see Fig. 4) for selectively selecting the commercial and program to form a combined output signal for display on display 58.

Zigmond further discloses a transmission means and the user side for transmitting control data to a source company which transmits the program information and the commercial information (see col. 4, lines 55-65, col. 7, lines 57-67, col. 11, lines 48-58, col. 15, lines 2-16).

Zigmond further discloses wherein said control means, at the viewers request, and in response to viewer operation of the condition setting means causes the transmission of commercial related information to be transmitted from a commercial related information

memory as met by col. 18, line 38 - col. 19, line 23, where a "cross-over" link may be presented to the viewer, which offers the viewer access to further information relating to the topic or subject that is simultaneously displayed on the video programming of display device 58. More specifically, the additional information may include information relating to the program description, or topics, dialog, persons, brand names, etc., that appear in the video programming feed 52, and the information is transmitted from a programming database.

Zigmond further discloses the claimed, "wherein said display conditions include an option to not display any commercial information such that only program information is displayed", as met by col. 14, lines 24-34, where, "the ad selection criteria may be set or modified by the viewer in order to request or block advertisements for selected classes of goods or services...In an extreme case, the ad selection criteria 83 may be modified in response to, for example, increased subscription fees from the viewer in order to allow the viewer to forego advertisements altogether..."

Zigmond further discloses Zigmond discloses a user can block all advertisements all together (see col. 14, lines 28-32) thus indicating a ratio of 1 to 0 i.e. programming to advertisements.

Regarding claims 18 and 25, Zigmond discloses an advertisement repository 86 (Fig. 5) for storing or recording the commercial information.

Regarding claims 19 and 27, Zigmond discloses the advertising rules can be selected

by the information provider (see col. 11, lines 50-54) and also discloses the advertisers can target ads (see col. 9, lines 24-38).

Regarding claims 20 and 26, Zigmond discloses charging a fee based on blocking of commercials (see col. 14, lines 25-35).

Regarding claims 22 and 29, Zigmond discloses charging a fee for blocking commercials and thus discloses the claimed 'display conditions indicate the commercial information should not be combined with the program information' (see col. 14, lines 25-35).

Regarding claims 23 and 30, Zigmond discloses the claimed 'display conditions indicate classifications of the commercial information which should be combined with the program information' (see 'certain goods and services' in col. 14, lines 36-48 and a specify a viewer's hobbies, interests, spending habits, and anticipated major purchases in col. 10, lines 60-64).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter B. Lonsberry whose telephone number is 571-272-7298. The examiner can normally be reached on Monday-Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Hunter B. Lonsberry
Primary Examiner
Art Unit 2623

HBL